

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA

Name EDDIE RAY JAMES Jr.
Prison Number 186013
Place of Confinement FOUNTAIN CORRECTIONAL FACILITY
Action No. 05-417-00-3 2:05cv957-D
(To be supplied by Clerk of U. S. District Court)

EDDIE RAY JAMES Jr. (PETITIONER)
(Full name under which you were convicted)

v.

WARDEN JERRY FERREL for
STATE OF ALABAMA, COVINGTON COUNTY et. al. (RESPONDENT)
(Name of Warden, Superintendent, Jailor, or authorized person
having custody of petitioner)

PETITION FOR WRIT OF HABEAS CORPUS BY A
PERSON IN STATE CUSTODY

Instructions - Read Carefully

- (1) This petition must be legibly handwritten or typewritten, and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5, your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must complete the "Motion to Proceed Without Prepayment of Fees and Costs" form mailed to you with this form, and have an authorized officer at the jail or prison complete the attached financial statement. The completed forms must be returned to the federal court clerk in Mobile.

Even if the court authorizes you to proceed without prepayment of filing fees, you are obligated to pay the full \$5.00. If you have the ability to pay a partial filing fee when your complaint is filed, you will be required to pay an amount, based on your assets, of up to the greater of 20% of your average monthly balance in your prison account, or your average monthly balance for six months immediately preceding the filing of your petition. Thereafter, your prison account will be garnished at the rate of 20% of your monthly income until the filing fee is paid.

(5) Only convictions entered by one court at the same time may be challenged in a single petition. If you seek to challenge convictions entered by different courts in the same state or in different states, you must file separate petitions as to each court.

(6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.

(7) When the petition is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court whose address is 113 Saint Joseph Street, Mobile, Alabama 36602.

(8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

(9) You must immediately advise the Court of any change in your address, e.g., if you are released, transferred, moved, etc. Failure to notify the Court of your new address will result in the dismissal of this petition for failure to prosecute and to obey the Court's order.

PETITION

1. Name and location of court which entered the judgment of conviction under attack: Circuit Court of CC-04- 0288 COVINGTON County, Alabama; Case Number CC-04-0288; Judge McKATHAM. Other court, and case number, if not Circuit Court: N/A

2. Date of judgment of conviction xxxxxxx 11/24/2004
3. Length of sentence 30 years
4. Nature of offense involved (all counts) one count Distribution
controlled substance

5. What was your plea? (Check one)

- (a) Not guilty XXX
- (b) Guilty _____
- (c) Nolo contendere _____

6. Kind of trial: (Check one)

- (a) Jury XXX
- (b) Judge only _____

7. Did you testify at the trial? Yes xxx No _____

8. Did you appeal from the judgment of conviction?

Yes xxx No _____

9. If you did not appeal, explain briefly why you did not:

N/A

10. If you did appeal, answer the following:

(a) Name of court ALABAMA CRIMINAL COURT OF APPEALS

(b) Result DENIED

(c) Date of result ATTORNEY LETTER 12/08/2004

(d) Did you file a petition for rehearing?

Yes _____ No xxx; if yes, what was the result?

When did the court rule on your petition? _____

(e) Did you file a petition for certiorari?

Yes _____ No XXX ; if yes, what was the result?

When did the court rule on your petition? _____

11. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions (Rule 20, Rule 32, Error Coram Nobis, Habeas Corpus), applications, or motions with respect to this judgment in any state court?

Yes XXX No _____

12. If your answer to 11. was "yes," give the following information:

(a) (1) Name of court COVINGTON C.C. Date filed: 11/25/2004

(2) Nature of proceeding (Rule 32, Rule 20, etc.)

Acquittal or rehearing

(3) Grounds raised I.A.D. VIOLATIONS

(4) Did you receive an evidentiary hearing on your petition, application, or motion? Yes _____ No xxx

(5) Result UNKNOWN (Attorney letter only)

(6) Date of result 1/14/2005

(b) As to any second petition, application or motion, give the same information:

(1) Name of court _____ Date filed: _____

Date filed: _____ Result: _____

Date of result: _____

(3) Third petition, etc. Yes _____ No _____

Date filed: _____ Result: _____

Date of result: _____

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

Attorney in cause has not advised of any further action

nor has the trial court sent actual copies to me pertaining to

its ruling, contrary to Alabama Rules Of Court 30 day rule.

13. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

Caution: In order to proceed in the federal court, you must first exhaust your state court remedies as to each ground on which you request action by the federal court. Also, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

(c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.

(d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.

(e) Conviction obtained by a violation of the privilege against self-incrimination.

(f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.

(g) Conviction obtained by a violation of the protection against double jeopardy.

(h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.

(i) Denial of effective assistance of counsel.

(j) Denial of right of appeal.

A. Ground one: Denial of right of appeal

1. Supporting FACTS (tell your story briefly without citing cases or law): Attorney allowed time toll on appeal and trial court
has not held an open hearing on the filings.
30 days motion are deemed to be denied under A.R.C.P.

2. Did you raise this claim before the state courts on:

Direct appeal: Yes _____ No XXX

Rule 20/32 Petition: Yes XXX No _____

X Error Coram Nobis: Yes _____ No XXX

State Habeas Corpus: Yes XXX No _____

3. If you did not raise this claim before the state courts,

tell why you did not: In my reasearch of the I.A.D. violation
case law citings Covington County is the one county to appear in
12 of the 19 current case citings and were ruled against in higher
Courts.

B. Ground two: VIOLATION OF THE INTERSTATE AGREEMENT ON
DETAINERS ACT, 15-9-81 part III time toll 180 days.
"shall" dismiss charges if violated.

1. Supporting FACTS (tell your story briefly without citing
cases or law): Covington County did not comence trial within
180 days after notice under the I.A.D. 15--9--81 part III

as defined under this section the trial court should have but did
not dismiss the charge with prejudice.

2. Did you raise this claim before the state courts on:

Direct appeal: Yes _____ No xxx

Rule 20/32 Petition: Yes xxx No _____

Error Coram Nobis: Yes _____ No XXX

State Habeas Corpus: Yes _____ No XXX

3. If you did not raise this claim before the state courts,
tell why you did not: CONTINUEED DELAY IN ACTION HOLD THIS
PETITIONER IN CUSTODY WITHOUT DUE CAUSE AND AGAINST JUSTICE
WHICH THIS INSTANT COUNTY CONTINUES TO DO CONTRARY TO LAW.

C. Ground three: TRIAL COURT WAS WITHHOUT JURISDICTION TO
RENDER TRIAL UNTIL I.A.D. VIOLATION WAS SETTLED.

1. Supporting FACTS (tell your story briefly without citing
cases or law): Constitutional law was violated and should have
been but was not addressed before the court could secure a jurisd-
iction justification in this matter.

2. Did you raise this claim before the state courts on:

Direct appeal: Yes _____ No XX

Rule 20/32 Petition: Yes _____ No xx

Error Coram Nobis: Yes _____ No XXX

State Habeas Corpus: Yes _____ No XXX

3. If you did not raise this claim before the state courts,
tell why you did not: CONTINUED DELY OF JUSTICE, THIS COUNTY HAS
CONTINUED TO DELAY THE PROCESS OF LAW CONCERNING THE I.A.D.
ACT ON NUMEROUS OCCATION AND IN THIS CASE AS WELL.

D. Ground four: _____

1. Supporting FACTS (tell your story briefly without citing
cases or law): _____

2. Did you raise this claim before the state courts on:

Direct appeal: Yes _____ No _____

Rule 20/32 Petition: Yes _____ No _____

Error Coram Nobis: Yes _____ No _____

State Habeas Corpus: Yes _____ No _____

3. If you did not raise this claim before the state courts,
tell why you did not: _____

14. A. Have any of the grounds listed in this present habeas corpus petition ever been raised by you in any other federal habeas corpus petition? Yes _____ No xxx. If yes, which grounds?

State the name and case number of your previous federal habeas corpus petition: _____

B. Have you previously filed a habeas corpus petition attacking this present conviction in this or any other federal court? Yes _____ No +xx. If yes, state the name and case number of your previous federal habeas corpus petition: _____

15. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes _____ No xxx. If yes, name the court: _____

and state the name and case number of the petition or appeal: _____

16. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing GRADY O. LANIER
206 S. THREE NOTCH STREET ANDALUSIA, AL 36420

(b) At arraignment and plea SAME AS ABOVE

(c) At trial SAME AS ABOVE

(d) At sentencing SAME AS ABOVE

(e) On appeal SAME AS ABOVE

(f) In any post-conviction proceeding SAME AS ABOVE

(g) On appeal from any adverse ruling in a post-conviction proceeding SAME AS ABOVE

17. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes _____ No xxx

18. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes _____ No xxx

(a) If so, give name and location of court which imposed sentence to be served in the future: NONE

(b) And give date and length of sentence to be served in the future: NONE

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes _____ No _____

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

NOT APPLICABLE
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of

perjury that the foregoing is true and correct. Executed on

(date)

Signature of Petitioner

Current mailing address
